



Rep. Jim Durkin

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1 AMENDMENT TO SENATE BILL 2306

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2306 on page 1 by  
3 replacing lines 17 through 23 with the following.

4 "or prospective employee to provide any user name and password,  
5 password, or other means of authentication ~~related account~~  
6 ~~information in order~~ to gain access to the ~~employee's or~~  
7 ~~prospective employee's account or profile on a social~~  
8 ~~networking website or to demand access in any manner to an~~  
9 employee's or prospective employee's personal Internet account  
10 ~~or profile on a social networking website.~~

11 (2) An employer may request that an employee disclose any  
12 user name and password, password, or other means of  
13 authentication for accessing any accounts or services provided  
14 by the employer or by virtue of the employee's employment  
15 relationship with the employer or that the employee uses for  
16 business purposes.

17 (3) An employer may not:

1           (A) discharge, discipline, or otherwise penalize or  
2           threaten to discharge, discipline, or otherwise penalize  
3           an employee for an employee's refusal to disclose any  
4           information specified in paragraph (1) of this subsection  
5           (b);

6           (B) fail or refuse to hire any prospective employee as  
7           a result of the prospective employee's refusal to disclose  
8           any information specified in paragraph (1) of this  
9           subsection (b); or

10           (C) be held liable for failing to request or require  
11           that an employee or prospective employee disclose any  
12           information specified in paragraph (1) of this subsection  
13           (b).

14           (4) Nothing in this subsection shall prevent an employer  
15           from conducting an investigation:

16           (A) for the purpose of ensuring or investigating past  
17           compliance with applicable laws, regulatory requirements,  
18           or prohibitions against work-related employee misconduct  
19           if the employer has specific information about activity in  
20           a personal Internet account by an employee or other source;

21           (B) for the purpose of investigating violations of  
22           applicable laws, regulatory requirements, or prohibitions  
23           against work-related employee misconduct if the employer  
24           has specific information about activity in a personal  
25           Internet account by an employee;

26           (C) for the purpose of protecting the security or

1 integrity of the employer's computers, devices, networks,  
2 or data if the employer has specific information about  
3 activity in or through the personal Internet account of an  
4 employee that has compromised or may compromise the  
5 security or integrity of the employer's computers,  
6 devices, networks, or data; or

7 (D) if the employer has specific information about the  
8 unauthorized transfer of an employer's proprietary  
9 information, confidential information, or financial data  
10 to a personal Internet account of an employee or someone  
11 acting in concert with an employee.

12 Conducting an investigation as specified in subparagraphs  
13 (A), (B), (C), and (D) of this paragraph (4) may include  
14 requiring the employee's cooperation to share information  
15 relevant to making a factual determination concerning the  
16 matter being investigated including, if relevant, access and  
17 information pertaining to the employee's personal Internet  
18 accounts.

19 (5) ~~(2)~~ Nothing in this subsection shall limit an  
20 employer's"; and

21 on page 2 by placing lines 5 through 13 with the following:

22 "networking site use, and electronic mail use; ~~and~~

23 (B) monitor, or request an employee's consent to  
24 monitor, usage of the employer's computers, devices,

1        network, or data; provided, however, that while engaging in  
2        such monitoring, an employer may not request or require any  
3        employee or prospective employee to access the employee's  
4        or prospective employee's personal Internet account for  
5        purposes of enabling the employer to observe activity in or  
6        the contents of such an account; and provided further that  
7        an employer undertaking such monitoring may not request or  
8        require electronic equipment and the employer's electronic  
9        mail without requesting or requiring any employee or  
10       prospective employee to provide any user name and password,  
11       password, or other means of authentication ~~related account~~  
12       ~~information in order~~ to gain access to the employee's or  
13       prospective employee's personal Internet account; and ~~or~~  
14       ~~profile on a social networking website.~~

15        (C) take such actions as may be necessary to comply  
16        with the requirements of State or Federal statutes, rules  
17        or regulations, case law, or rules of self-regulatory  
18        organizations.

19        (6) ~~(3)~~ Nothing in this subsection shall prohibit an  
20        employer"; and

21        on page 2, line 18, by changing "(3.5)" to "(7)"; and

22        on page 2, line 20, by inserting "Internet" immediately before  
23        "account" each time it appears; and

1 by replacing all of page 3 with the following:

2 "(8) ~~(4)~~ For the purposes of this subsection:

3 (A) "Prospective employee" means an applicant for  
4 employment.

5 (B) "Employer" means a person engaged in a business,  
6 industry, profession, trade, or other enterprise in this  
7 State, or any unit of State or local government. "Employer"  
8 includes any agent, representative, or designee of the  
9 employer.

10 (C) "Personal Internet account" means an account  
11 created via bounded system established by an  
12 Internet-based service that requires a user to input or  
13 store access information via an electronic device to view,  
14 create, utilize, or edit the user's account information,  
15 profile, display, communications, or stored data.  
16 "Personal Internet account" does not include an account  
17 provided by the employer, obtained by virtue of the  
18 employee's employment relationship with the employer, or  
19 used for the employer's business purposes.

20 (D) "Professional Internet account" means an account  
21 created via a bounded system established by an  
22 Internet-based service that is created, maintained,  
23 obtained, used, or accessed by virtue of the employee's  
24 employment relationship with the employer or used for the  
25 employer's business purpose.

1           ~~,"social networking website" means an Internet based~~  
2           ~~service that allows individuals to:~~

3           ~~(A) construct a public or semi-public profile within a~~  
4           ~~bounded system, created by the service;~~

5           ~~(B) create a list of other users with whom they share a~~  
6           ~~connection within the system; and~~

7           ~~(C) view and navigate their list of connections and~~  
8           ~~those made by others within the system.~~

9           ~~"Social networking website" shall not include electronic~~  
10          ~~mail.~~

11          (Source: P.A. 97-875, eff. 1-1-13.)

12           Section 99. Effective date. This Act takes effect upon  
13          becoming law."